

# **STATE PERSONNEL BOARD CALENDAR**



**JULY 26, 2005**

**SACRAMENTO, CALIFORNIA**

**State of California**

**Memorandum**

**DATE:** July 15, 2005

**TO:** ALL INTERESTED PARTIES

**FROM:** STATE PERSONNEL BOARD - Appeals Division

**SUBJECT:** Notice and Agenda for the **July 26, 2005**, meeting of the State Personnel Board.

PLEASE TAKE NOTICE that on July 26, 2005, at the offices of the State Personnel Board, located at 801 Capitol Mall, **Room 108**, Sacramento, California, the State Personnel Board will hold its regularly scheduled meeting. Pursuant to Government Code section 11123, a teleconference location may be conducted for this meeting at 320 W. 4<sup>th</sup> Street, Los Angeles, California.

The attached Agenda provides a brief description of each item to be considered and lists the date and approximate time for discussion of the item.

Also noted is whether the item will be considered in closed or public session. Closed sessions are closed to members of the public. All discussions held in public sessions are open to those interested in attending. Interested members of the public who wish to address the Board on a public session item may request the opportunity to do so.

Should you wish to obtain a copy of any of the items considered in the public sessions for the July 26, 2005, meeting, please contact staff in the Secretariat's Office, State Personnel Board, 801 Capitol Mall, MS 22, Sacramento, California 95814 or by calling (916) 653-0429 or TDD (916) 654-2360, or the Internet at:

**<http://www.spb.ca.gov/calendar.htm>**

Should you have any questions regarding this Notice and Agenda, please contact staff in the Secretariat's Office at the address or telephone numbers above.



P. Fong  
Secretariat's Office

Attachment



## **CALIFORNIA STATE PERSONNEL BOARD MEETING<sup>1</sup>**

801 Capitol Mall  
Sacramento, California

Public Session Location – 801 Capitol Mall  
Sacramento, California, **Room 108**  
Teleconference – 320 West 4<sup>th</sup> Street<sup>2</sup>  
Los Angeles, California, Suite 620

Closed Session Location – 801 Capitol Mall  
Sacramento, California, Room 108  
Teleconference – 320 West 4<sup>th</sup> Street  
Los Angeles, California, Suite 620

## **MID MONTH MEETING – JULY 26, 2005**

<sup>1</sup> Sign Language Interpreter will be provided for Board Meeting upon request - contact Secretariat at (916) 653-0429, or CALNET 453-0429, TDD (916) 654-2360.

<sup>2</sup>Pursuant to Government Code section 11123, a teleconference location may be conducted for this meeting at 320 West 4<sup>th</sup> Street, Los Angeles, California.

**FULL BOARD MEETING AGENDA<sup>3</sup>**

**JULY 26, 2005**

**PUBLIC SESSION OF THE STATE PERSONNEL BOARD**

**(9:00 a.m. – 9:30 a.m.)**

- 1. ROLL CALL**
- 2. REPORT OF THE EXECUTIVE OFFICER – Floyd D. Shimomura**
- 3. REPORT OF THE CHIEF COUNSEL – Elise Rose**
- 4. NEW BUSINESS**
- 5. REPORT ON LEGISLATION – Sherry Hicks**

The Board may be asked to adopt a position with respect to the bills listed on the legislation memorandum attached hereto.

**CLOSED SESSION OF THE STATE PERSONNEL BOARD**

**(9:30 a.m. – 10:30 a.m.)**

- 6. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS, AND OTHER PROPOSED DECISIONS SUBMITTED BY ADMINISTRATIVE LAW JUDGES**

Deliberations on matters submitted at prior hearing; on proposed, rejected, remanded, and submitted decisions; petitions for rehearing; and other matters related to cases heard by administrative law judges of the State Personnel Board or by the Board itself. [Government Code Sections 11126 (d), and 18653 (2).]

- 7. PENDING LITIGATION**

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial. [Government Code sections 11126(e)(1) and 18653.]

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<sup>3</sup> The Agenda for the Board can be obtained at the following internet address:  
<http://www.spb.ca.gov/calendar.htm>

State Personnel Board v. Department of Personnel Administration,  
California Supreme Court Case No. S119498.

State Personnel Board v. California State Employees Association,  
California Supreme Court Case No. S122058.

Connerly v. State Personnel Board, California Supreme Court,  
Case No. S125502.

International Union of Operating Engineers v. State Personnel Board,  
Public Employment Relations Board (PERB) Case No. SA-CE-1295-S.

State Compensation Ins. Fund v. State Personnel Board/CSEA,  
Sacramento Superior Court No. 04CS00049.

SEIU Local 1000 (CSEA) v. State Personnel Board,  
Sacramento Superior Court No. 05CS00374.

The Copley Press, Inc. v. San Diego Superior Court,  
California Supreme Court No. S128603.

Union of American Physicians and Dentists v. Department of Corrections, et al.,  
United States District Court, Northern District of California.

**8. RECOMMENDATIONS TO THE LEGISLATURE**

Deliberations on recommendations to the legislature.  
[Government Code section 18653.]

**9. RECOMMENDATIONS TO THE GOVERNOR**

Deliberations on recommendations to the Governor on scope of bargaining.  
[Government Code section 18653.]

**PUBLIC SESSION OF THE STATE PERSONNEL BOARD**

**(10:30 a.m. – onwards)**

**10. DISCUSSION OF COMING BOARD MEETING SCHEDULE OF  
AUGUST 9-10, 2005, IN SACRAMENTO, CALIFORNIA**

**11. ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES**

June 21, 2005 Summary Minutes

12. **EVIDENTIARY CASES** - (See Case Listings on Page 8-13)
13. **RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE SECTION 18671.1 EXTENSION** - (See Agenda Page 20-21)
14. **NON-EVIDENTIARY CASES** - (See Case Listings on Page 13-18)
15. **NON-HEARING CALENDAR**

Proposals are made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff.

**NONE**

16. **STAFF CALENDAR ITEMS FOR BOARD INFORMATION**

The Department of Personnel Administration requests that a Footnote 24 be placed on seven Printing Trades (PTS) classes in order to prevent any new appointments to these classes and to abolish the classes when they become vacant.

17. **CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY**

This section of the Agenda serves to inform interested individuals and departments of proposed and approved CEA position actions.

The first section lists position actions that have been proposed and are currently under consideration.

Any parties having concerns with the merits of a proposed CEA position action should submit their concerns in writing to the Classification and Compensation Division of the Department of Personnel Administration, the Merit Employment and Technical Resources Division of the State Personnel Board, and the department proposing the action.

To assure adequate time to consider objections to a CEA position action, issues should be presented immediately upon receipt of the State Personnel Board Agenda in which the proposed position action is noticed as being under consideration, and generally no later than a week to ten days after its publication.

In cases where a merit issue has been raised regarding a proposed CEA position action and the dispute cannot be resolved, a hearing before the five-member Board may be scheduled. If no merit issues are raised regarding a proposed CEA position action, and it is approved by the State Personnel Board, the action becomes effective without further action by the Board.

The second section of this portion of the Agenda reports those position actions that have been approved. They are effective as of the date they were approved by the Executive Officer of the State Personnel Board.

**A. REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS CURRENTLY UNDER CONSIDERATION**

**CHIEF, PUBLIC PARTICIPATION PROGRAM**

The Water Resources Control Board proposes to allocate the above position to the CEA category. The Chief, Public Participation Program will be the Water Board and Regional Water Board's primary expert on public participation issues and will be responsible for program development, providing guidance and policy direction to the Water Board and Regional Water Board Members and Executive level managers in all Water Board and Regional Water Board organizations.

**ASSISTANT CHIEF COUNSEL**

The State Compensation Insurance Fund proposes to allocate the above position to the CEA category. The Assistant Chief Counsel will head the legal services of the State Contract Services program. The responsibilities of the Assistant Chief Counsel will include formulating legal policies; developing and implementing the State Contract legal units and operational policies on behalf of the state contract services.

**DEPUTY DIRECTOR, OFFICE OF PROBLEM GAMBLING**

The Department of Alcohol and Drug Programs proposes to establish the above position to the CEA category on a permanent basis. SPB previously approved the CEA allocation Deputy Director, Office of Problem Gambling on a limited term basis for a period of twelve months effective November 30, 2004.

**B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS**

**CHIEF DEPUTY DIRECTOR, ENTERPRISE TECHNOLOGY**

The Legislative Counsel Bureau's proposal to reallocate the existing CEA allocation, Director, Legislative Data Center to the Chief Deputy Director, Enterprise Technology has been approved effective June 24, 2005.

**CHIEF DEPUTY DIRECTOR, CUSTOMER SERVICES**

The Legislative Counsel Bureau's proposal to reallocate the existing CEA allocation, Chief Deputy Director, Legislative Data Center to the Chief, Deputy Director, Customer Services has been approved effective June 24, 2005.

**REGION CHIEF, COASTAL REGION, SANTA ROSA  
REGION CHIEF, CASCADE REGION, REDDING  
REGION CHIEF, SIERRA REGION, FRESNO  
REGION CHIEF, SOUTHERN REGION, RIVERSIDE**

The Department of Forestry's request to reallocate the following four existing CEA allocations: Assistant Region Chief, Operations, Southern; Assistant Region Chief, Administration, Southern; Assistant Region Chief; Operations, Northern and Assistant Region Chief, Administration, Northern to the above mentioned positions has been approved effective June 24, 2005.

**17. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS**

Deliberations to consider matter submitted at prior hearing. [Government Code sections 11126(d), 18653.]

**NONE**

**18. WRITTEN STAFF REPORT FOR BOARD INFORMATION**

**NONE**

**19. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY**

**20. BOARD ACTIONS - (See Agenda - Page 19)**

These items have been taken under submission by the State Personnel Board at a prior meeting and may be before the Board for a vote at this meeting. This list does not include evidentiary cases, as those cases are listed separately by category on this agenda under Evidentiary Cases.

**A D J O U R N M E N T**

## 12. EVIDENTIARY CASES

The Board Administrative Law Judges conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

### A. BOARD CASES SUBMITTED

These items have been taken under submission by the State Personnel Board at a prior meeting. Cases that are before the Board for vote will be provided under separate cover.

#### (1) **PATRICK BARBER, CASE NO. 04-0174PA**

Appeal from dismissal

**Classification:** Youth Correctional Counselor

**Department:** Department of the Youth Authority

Proposed decision adopted November 3, 2004  
modifying dismissal to 45 calendar days suspension  
Transcript prepared  
Pending oral argument June 7, 2005, Sacramento  
Oral argument continued  
Oral argument heard July 13, 2005, Sacramento

#### (2) **JAMES MCAULEY, CASE NO. 04-1856**

Appeal from dismissal

**Classification:** Associate Transportation Engineer, Caltrans  
(Registered)

**Department:** Department of Transportation

Proposed decision rejected March 8-9, 2005  
Transcript prepared  
Oral argument heard June 7, 2005, Sacramento  
Case ready for decision by FULL Board

### B. CASES PENDING

#### ORAL ARGUMENTS

These cases are on calendar to be argued at this meeting or to be considered by the Board in closed session based on written arguments submitted by the parties.

**NONE**

**C. CHIEF COUNSEL RESOLUTIONS**

**NONE**

**COURT REMANDS**

This case has been remanded to the Board by the court for further Board action.

**NONE**

**STIPULATIONS**

These stipulations have been submitted to the Board for Board approval, pursuant to Government Code, section 18681.

**NONE**

**D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS**

**PROPOSED DECISIONS**

These are ALJ proposed decisions submitted to the Board for the first time.

**(1) PATRICK BRASS, CASE NO. 04-1952**

Appeal from dismissal

**Classification:** Youth Correctional Counselor

**Department:** Department of the Youth Authority

**(2) RAUL CABAN CASE NO. 05-0648**

Appeal from 30 working days suspension

**Classification:** Caltrans equipment Operator II

**Department:** Department of Transportation

**(3) ROYCE HENSON, CASE NO. 02-3501EAR**

Appeal from retaliation claim

**Classification:** Staff Services Manager II

**Department:** Department of Forestry and Fire Protection

**(4) WILLIAM JOHNSON, CASE NO. 04-1799**

Appeal from five working days suspension

**Classification:** Correctional Health Services Administrator I, CF

**Department:** Department of Corrections

- (5) **CATHY KURTZ, CASE NO. 04-1465**  
Appeal from termination from a Career Executive Assignment II  
**Classification:** Chief of Administration/Assistant Executive Officer  
**Department:** Board of Prison Terms
- (6) **DALE MERICLE, M.D., CASE NO. 03-3296**  
Appeal from dismissal  
**Classification:** Physician and Surgeon, Correctional Facility  
**Department:** Department of Corrections
- (7) **ANDREW PLASS, CASE NO. 04-2845**  
Appeal from demotion from the position of Correctional Sergeant to Correctional Officer and 30 days' suspension  
**Classification:** Correctional Sergeant  
**Department:** Department of Corrections
- (8) **GERALD RAX, CASE NO. 04-2380**  
Appeal from ten percent reduction in salary for ten months  
**Classification:** Employment Program Representative  
**Department:** Employment Development Department
- (9) **LYNETTE RHEA, CASE NO. 04-1894E**  
Errata to decision adopted by the Board on May 17, 2005  
**Classification:** Assistant Caltrans Administrator  
**Department:** Department of Transportation

**Proposed Decisions Taken Under Submission At Prior Meeting**

These are ALJ proposed decisions taken under submission at a prior Board meeting, for lack of majority vote or other reason.

**NONE**

**PROPOSED DECISIONS AFTER BOARD REMAND**

**NONE**

**PROPOSED DECISIONS AFTER SPB ARBITRATION**

- (10) **ROBERTA COLLINS, CASE NO. 05-1053**  
Appeal from five working days suspension  
**Classification:** Officer, California Highway Patrol  
**Department:** California Highway Patrol

**E. PETITIONS FOR REHEARING**

**ALJ PROPOSED DECISIONS ADOPTED BY THE BOARD**

The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

- (1) **RON CROTHER, CASE NO. 04-3038P**  
Appeal from three workday suspension  
**Classification:** Correctional Officer  
**Department:** Department of Corrections
- (2) **NILOUFAR DIDEHVAR, CASE NO. 04-3047P**  
Appeal from dismissal  
**Classification:** Transportation Engineer, Caltrans (Civil)  
**Department:** Department of Transportation
- (3) **STEVE JACOBS, CASE NO. 03-3457P & 03-3458P**  
Appeal from 60 days suspension and demotion  
**Classification:** Chief, Plant Operations II  
**Department:** Department of Veterans Affairs
- (4) **JUDITH JONES, CASE NO. 04-1925P**  
Appeal from dismissal  
**Classification:** Public Safety Dispatcher II  
**Department:** Department of California Highway Patrol
- (5) **LAWRENCE KILGORE, CASE NO. 04-2748P**  
Appeal from official reprimand  
**Classification:** Correctional Lieutenant  
**Department:** Department of Corrections

**WHISTLEBLOWER NOTICE OF FINDINGS**

The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a Notice of Findings issued by the Executive Officer under Government Code, section 19682 et seq. and Title 2, California Code of Regulations, section 56 et seq.

**NONE**

**F. PENDING BOARD REVIEW**

These cases are pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

**(1) JON CHASE, CASE NO. 04-0392A**

Appeal from 30 working days suspension

**Classification:** Associate Management Auditor

**Department:** Employment Development Department

Proposed decision rejected April 19, 2005

Transcript prepared

Pending oral argument July 13, 2005, Sacramento

Oral argument continued

Pending oral argument August 9-10, 2005, Sacramento

**(2) GARY GARFINKEL, CASE NO. 98-3128RB**

Appeal for determination of back salary, benefits and interest

**Classification:** Deputy Attorney General IV

**Department:** Department of Justice

Proposed decision rejected July 13, 2005

Pending transcript

**(3) INTERNATIONAL UNION OF OPERATING ENGINEERS,  
UNIT 12, LOCALS 3, 12, 39, & 501, CASE NO. 04-0813A  
[PSC File No. 04-002 (b)]**

Review of personal services contract for maintenance and grounds keeping

**Department:** California Science Center

Proposed decision rejected June 21, 2005

Pending transcript

**(4) JOSEPH MARTINEZ, CASE NO. 04-2690A**

Appeal from dismissal

**Classification:** Hospital Police Officer

**Department:** Department of Mental Health

Proposed decision rejected May 17, 2005

Transcript prepared

Pending oral argument August 31-31, 2005, Los Angeles

**(5) KIM RITTENHOUSE, CASE Nos. 03-3541A & 03-3542E**

Appeal from denial of reasonable accommodation

**Classification:** Office Technician (General)

**Department:** Department of Fish and Game

Proposed decision rejected May 18, 2004

Pending transcript

- (6) **ANDREW RUIZ, CASE NO. 04-2391A**  
Appeal from dismissal  
**Classification:** Correctional Lieutenant  
**Department:** Department of Corrections

Proposed decision rejected June 7, 2005  
Pending transcript

- (7) **MARK SAMORA, CASE NO. 04-3091**  
Appeal from dismissal  
**Classification:** Correctional Lieutenant  
**Department:** Department of Corrections

Proposed decision rejected June 7, 2005  
Pending transcript

### 13. NON-EVIDENTIARY CASES

#### A. WITHHOLD APPEALS

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

#### WITHHOLD FROM CERTIFICATION CASES HEARD BY A STAFF HEARING OFFICER

NONE

#### WITHHOLD FROM CERTIFICATION CASES NOT HEARD BY A STAFF HEARING OFFICER

- (1) **JOSE BARRAGAN, CASE NO. 04-2223**  
**Classification:** Correctional Officer  
**Department:** Corrections  
**Issue:** Suitability; omitted pertinent information and furnished inaccurate information.
- (2) **DANIEL CASTRO, CASE NO. 04-2080**  
**Classification:** Correctional Officer  
**Department:** Corrections  
**Issue:** Suitability and felony conviction.

- (3) **SCOTT CHAMBERLAIN, CASE NO. 04-2295**  
**Classification:** Correctional Officer  
**Department:** Corrections  
**Issue:** Omitted pertinent information during the selection process; arrest/conviction record.
- (4) **BERTRAM CLARKE, CASE NO. 05-0416**  
**Classification:** Medical Technical Assistant  
**Department:** Corrections  
**Issue:** Suitability; negative employment record, omitted pertinent information and furnished inaccurate information during the selection process.
- (5) **JOHN CRAWFORD, CASE NO. 04-1926**  
**Classification:** Correctional Officer  
**Department:** Corrections  
**Issue:** Suitability and a negative employment record.
- (6) **MELISSA CURL, CASE NO. 04-2710**  
**Classification:** Medical Technical Assistant  
**Department:** Corrections  
**Issue:** The appellant omitted pertinent information and furnished inaccurate information during the selection process.
- (7) **WILLIE DEED, CASE NO. 04-3052**  
**Classification:** Correctional Officer  
**Department:** Corrections  
**Issue:** Suitability; omitted pertinent information and had a negative employment record.
- (8) **SHEILA HOLLOMAN, CASE NO. 04-2719**  
**Classification:** Correctional Officer  
**Department:** Corrections  
**Issue:** The appellant omitted pertinent information about her negative employment record.
- (9) **EDGAR JAUREGUI, CASE NO. 05-0653**  
**Classification:** Correctional Officer  
**Department:** Corrections  
**Issue:** Suitability; omitted pertinent information, had an arrest conviction record, negative law enforcement contacts and a negative driving record.

- (10) **DESHEMIA JOHNSON, CASE NO. 04-2594**  
**Classification:** Medical Technical Assistant (MTA)  
**Department:** Corrections  
**Issue:** Suitability; furnished inaccurate information, omitted pertinent information, negative employment and failure to comply with legal obligations.
- (11) **ERIN KIRKPATRICK, CASE NO. 04-1836**  
**Classification:** Associate Information Systems Analyst  
**Department:** Department of Transportation  
**Issue:** Whether the appellant met the Minimum Qualifications.
- (12) **EDUARDO LOPEZ, CASE NO. 04-2079**  
**Classification:** Correctional Officer  
**Department:** Corrections  
**Issue:** Suitability; omitted pertinent information and furnished inaccurate information.
- (13) **ISREAL MARTINEZ, CASE NO. 04-1833**  
**Classification:** Correctional Officer  
**Department:** Corrections  
**Issue:** Suitability; omitted pertinent information, furnished inaccurate information and negative law enforcement contacts.
- (14) **NICHOLAS NELSON, CASE NO. 04-2432**  
**Classification:** Correctional Officer  
**Department:** Corrections  
**Issue:** Suitability; furnished inaccurate information negative law enforcement contacts and an arrest/conviction record.
- (15) **SERGIO PEREZ, CASE NO. 04-1439**  
**Classification:** Correctional Officer  
**Department:** Corrections  
**Issue:** Suitability.
- (16) **JOHN PERRY, CASE NO. 04-2531**  
**Classification:** State Traffic Officer Cadet  
**Department:** California Highway Patrol  
**Issue:** The appellant is not suitable for employment as peace officer at this time.
- (17) **JARVIEL RAYFORD, SR., CASE NO. 04-2529**  
**Classification:** Correctional Officer  
**Department:** Corrections  
**Issue:** The appellant is not suitable for employment as peace officer.

- (18) **ROBERT SILVEIRA, CASE NO. 04-2888**  
**Classification:** Correctional Officer  
**Department:** Corrections  
**Issue:** Suitability and illegal drug usage.
- (19) **GONZALO VARELA, CASE NO. 04-2532**  
**Classification:** Correctional Officer  
**Department:** Corrections  
**Issue:** The appellant is not suitable for employment as peace officer.
- (20) **GERALD WILLIAMS, CASE NO. 04-1784**  
**Classification:** Correctional Officer  
**Department:** Department of Corrections  
**Issue:** Suitability; negative employment history, negative law enforcement contacts.
- (21) **NATHANIEL WILLIAMS, CASE NO. 04-1993**  
**Classification:** Correctional Officer  
**Department:** Corrections  
**Issue:** Suitability, omitted pertinent information and failure to meet legal obligations.

**B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS**

Cases heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board will be presented recommendations by a Hearing Panel on each appeal.

- (1) **ROBBI GEYSER, CASE NO. 04-2674**  
**Classification:** Correctional Officer  
**Department:** Corrections  
**Issue:** Does sufficient evidence exist to support the psychological disqualification of the appellant?
- (2) **LEONORA HUTCHISON, CASE NO. 04-2575**  
**Classification:** Correctional Officer  
**Department:** Corrections  
**Issue:** Does sufficient evidence exist to support the psychological disqualification of the appellant?

**C.    EXAMINATION APPEALS  
      MINIMUM QUALIFICATIONS  
      MERIT ISSUE COMPLAINTS**

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

**EXAMINATION APPEALS**

**NONE**

**MINIMUM QUALIFICATIONS**

**NONE**

**MERIT ISSUE COMPLAINTS**

**NONE**

**D.    RULE 211 APPEALS  
      RULE 212 OUT OF CLASS APPEALS  
      VOIDED APPOINTMENT APPEALS**

Cases heard by a Staff Hearing Officer, or a managerial staff member of the State Personnel Board. The Board will be presented recommendations by a Staff Hearing Officer for final decision on each appeal.

**NONE**

**E.    REQUEST TO FILE CHARGES CASES**

Investigated by Appeals Division staff. The Board will be presented recommendations by Appeals Division staff for final decision on each request.

- (1)    TIMOTHY FORD, CASE NO. 04-2588**  
      **Classification:** Member of the public  
      **Department:** California Highway Patrol  
      **Issue:** The charging party requests that charges are filed against the charged party for violations of various subsections of Government Code, section 19572.

- (2) **FRANCIS LA BLANC, CASE NO. 04-2405**  
**Classification:** Civilly Committed Patient at Atascadero State Hospital  
**Department:** California Department of Mental Health  
**Issue:** The charging party requests to file charges against an employee of the Atascadero State Hospital.
- (3) **CHRISTIAN WILLIAMS, CASE NO. 04-2267**  
**Classification:** Civilly Committed Patient at Atascadero State Hospital  
**Department:** California Department of Mental Health  
**Issue:** The charging party requests to file charges against an employee of the Atascadero State Hospital.

**PETITIONS FOR REHEARING CASES**

**NONE**

**F. PSYCHOLOGICAL SCREENING CASES**

Cases reviewed by Appeals Division staff, but no hearing was held. It is anticipated that the Board will act on these proposals without a hearing.

**NONE**

**SUBMITTED**

**1. TEACHER STATE HOSPITAL (SEVERELY), ETC.**

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

**2. VOCATIONAL INSTRUCTOR (SAFETY)(VARIOUS SPECIALTIES)**

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

**3. TELEVISION SPECIALIST (SAFETY)**

The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003.)

**4. HEARING – Personal Services Contract #04-03**

Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)

**5. HEARING**

Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004.)

**6. JAMES MCAULEY, CASE NO. 04-1856.**

Appeal from dismissal. Associate Transportation Engineer. Department of Transportation. (Oral argument held June 7, 2005.)

**7. HEARING – Personal Services Contract #05-03**

Appeal of SEIU Local 1000 (CSEA) from the Executive Officer's February 16, 2005 Approval of a Contract for Information Technology Services between the California Department of Health Services (DHS) and IDNS, Inc. (Hearing held July, 13, 2005)

**8. PATRICK BARBER, CASE NO. 04-0174A.**

Appeal from dismissal. Youth Correctional Officer. Department of Youth Authority. (Oral Argument held July 13, 2005)

**NOTICE OF GOVERNMENT CODE SECTION 18671.1 RESOLUTION**

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

**GOVERNMENT CODE SECTION 18671.1 RESOLUTION**

**WHEREAS**, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

**WHEREAS**, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

**WHEREAS**, the Agenda for the instant Board meeting included an item titled "Notice of Government Code section 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

**WHEREAS**, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED** that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

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(Cal. 7/26/05;)

TO: Members  
State Personnel Board

FROM: State Personnel Board - Legislative Office

SUBJECT: LEGISLATION

The status of major legislation being followed for impact on Board programs and the general administration of the State Civil Service Merit System is detailed in the attached report.

Any legislative action that takes place after the printing of this report, which requires discussion with the Board, will be covered during the Board meeting.

Please contact me directly should you have any questions or comments regarding this report. I can be reached at (916) 653-0453.

A handwritten signature in cursive script that reads 'Sherry Hicks'.

Sherry Hicks  
Director of Legislation

Attachment

**STATE PERSONNEL BOARD  
LEGISLATIVE TRACKING  
REPORT  
2005-06 SESSION**

**Status as of  
July 12, 2005**



**ASSEMBLY/SENATE BILLS**  
(Tracking)

BILL/ AUTHOR	BOARD POSITION	SUBJECT	STATUS OF BILL
<b>AB 38 (Tran)</b>	<b>OPOSE</b>	AB 38 proposes suspending the salaries of specific state board and commission members for the fiscal years 2005 through 2009. The State Personnel Board is one of those boards that would not receive salaries for those fiscal years.	2-Year Bill. Assembly Business and Professions Committee. Died in Committee. Reconsideration granted.
<b>AB 47 (Cohn)</b>	<b>NEUTRAL</b>	This bill would prohibit, except under specified circumstances, the Department of General Services from authorizing the Department of Corrections to enter into contracts for medical care services without seeking competitive bids for those contracts	Senate Appropriations Committee.
<b>AB 94 (Haynes)</b>	<b>NEUTRAL</b>	Among other things, this bill would require various state agencies to prepare and provide a report to the Senate Committee on Rules, the Assembly Committee on Rules, and to each member of the Senate Committee on Budget and Fiscal Review and the Assembly Committee on Budget on the financial activities of the agency, board, commission, department, or office for the 2000-01, 2001-02, 2002-03, 2003-04 and 2004-05 fiscal years no later than January 15, 2006, and for each subsequent fiscal year by January 15 of the following year.	2-Year Bill.

<b>AB 124 (Dymally)</b>	<b>SUPPORT</b>	This bill would repeal requirements to annually establish employment goals and timetables based on race or gender that were invalidated by the California Court of Appeal in <i>Connerly v. State Personnel Board</i> , and re-title Chapter 12 of Part 2, Division 5, Title 2 of the Government Code from "Affirmative Action Program" to "State Equal Employment Opportunity Program". In addition, it would strengthen equal employment opportunity requirements.	Senate Appropriations Committee. Committee amendments taken.
<b>AB 194 (Dymally)</b>		The Ralph M. Brown Act requires, with specified exceptions, that all meetings of a legislative body of a local agency be open and public and all persons be permitted to attend. This bill would remove the requirement that the legislative body be allowed to cure or correct an alleged violation prior to commencement of a legal action and would remove provisions that preclude specified actions from being determined to be null and void.	Assembly Committee on Local Government (2-Year Bill).
<b>AB 195 (Dymally)</b>	<b>NO POSITION</b>	This bill would expand the remedies available to individuals who file discrimination complaints with the State Personnel Board by authorizing the State Personnel Board to award reasonable attorney's fees and costs, including expert witness fees.	Senate Appropriations Committee. Committee amendments taken.
<b>AB 271 (BLAKESLEE)</b>	<b>OPPOSE</b>	This bill would require that any person appointed to a scientist class in state service possess a four-year degree in a scientific discipline from an accredited university.	Senate Public Employment and Retirement Committee. 2-Year Bill.
<b>AB 277 (Mountjoy)</b>	<b>SUPPORT</b>	This bill would authorize the Board of Administration of the Public Employees' Retirement System to hold closed sessions when considering matters relating to the development of rates and competitive strategy for long-term care insurance plans.	Senate Appropriations Committee.

<b>AB 297 (Yee)</b>	<b>SUPPORT</b>	This bill would specify that a current patient of a facility operated by the state Department of Mental Health (DMH) cannot file charges against a state employee, but rather must use the grievance processes of the DMH.	Senate Appropriations Committee. (Consent Calendar).
<b>AB 529 (Goldberg)</b>	<b>NEUTRAL</b>	This bill would amend existing law to permit CSU employees to request hearings by the State Personnel Board (SPB) when CSU trustees: (1) fail to comply with their obligation to apply for disability retirement on behalf of an employee as required under existing law and (2) deny a request for reasonable accommodation.	Senate Judiciary Committee.
<b>AB 775 (Yee)</b>	<b>SUPPORT</b>	This bill would prohibit any state or local governmental agency, or any public or private agency, organization, entity, or program that receives state funding, from using any child, or permitting any child to be used, as an interpreter, as defined, in any hospital, clinic, or physician office in the context of diagnosis and treatment, except as specified. The bill would require each such agency, organization, entity, or program that receives state funding to have in place, and available for inspection, an established procedure for providing competent interpretation services that does not involve the use of children, as defined, in this manner. This bill contains other related provisions and other existing laws.	Senate Judiciary Committee.
<b>AB 836 (Huff)</b>	<b>NEUTRAL</b>	Existing law requires every state agency and court for which an appropriation is made to submit to the Department of Finance for approval, a complete and detailed budget setting forth all proposed expenditures and estimated revenues for the ensuring fiscal year. This bill would require that these budgets utilize a zero-based budget method, as defined.	Assembly Budget Committee 2-year Bill.
<b>AB 884 (Baca)</b>	<b>NEUTRAL</b>	This bill would prohibit a state agency, including the California State University, from employing a primary care physician as an independent contractor when there is an unfilled, full-time primary care physician position available within the state agency, unless the state agency is unable to do so after a good faith effort.	Senate Appropriations Committee

<b>AB 1066 (Horton, Jerome)</b>	<b>NEUTRAL</b>	This bill would amend existing law to provide that a state agency: (1) may not pay a contractor under a cost-savings contract until the State Personnel Board (SPB) had first approved that contract and all administrative appeals have been exhausted or waived; (2) may not seek to enter into a cost-savings contract with a contractor if SPB disapproved a prior contract with that same contractor for the same services within the preceding 12 months; and (3) must give 10 days prior notice to Bargaining Unit 12 of any contract the agency intends to enter into that may affect that bargaining unit.	Senate Appropriations Committee.
<b>SB 165 (Speier)</b>	<b>NEUTRAL</b>	This bill would create the Office of the Special Counsel (OSC) as a separate branch of the State Personnel Board (Board), to protect state employees and applicants for state employment who have been retaliated against as a result of their having made protected disclosures under the Whistleblower Protection Act (Government Code section 8547 <i>et seq.</i> ).	Senate Appropriations Committee. (Suspense file. 2-year bill.)
<b>SB 606 (Kehoe)</b>	<b>OPPOSE</b>	This bill would authorize that the State Personnel Board may create a classification for full-time lifeguards that does not require completion of the basic training course established by the Commission on Peace Officers Standards and Training.	Senate Appropriations Committee (Suspense File. 2-yr bill.)
<b>SB 737 (Romero)</b>		Among other things, upon request of the Governor, the State Personnel Board (SPB) could develop and implement cost-effective recruitment and merit-based selection processes to establish lists of qualified applicants for consideration by the Governor in filling any of the 36 identified positions	Chaptered. Chapter #10, Statutes of 2005.

<b>SB 1095 (Chesbro)</b>	<b>NEUTRAL</b>	<p>This bill would amend existing law by allowing the California Conservation Corps (CCC) exceptions to the current requirements relating to 1) procurement or management of motor vehicle fleets; 2) hire, lease, lease-purchase of property or facilities; 3) limited-term appointments; and 4) hiring-above-minimum salary adjustments.</p> <p>This analysis is limited to those provisions that directly impact the State Personnel Board (SPB). Specifically, the bill would allow CCC to extend limited-term (LT) appointments, beyond the current 2 years, to a maximum of 4 years, when authorized by SPB.</p>	Assembly Appropriations Committee (On Suspense)
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